

## TITLE 16. Medical Board of California

### Notice of Continued Hearing

NOTICE IS HEREBY GIVEN that the Medical Board of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Medical Board of California Hearing Room, 2005 Evergreen Street, Sacramento, California at 9:00 a.m., on October 14, 2014. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 2018 of the Business and Professions Code, and to implement, interpret or make specific Sections 125.9 and 148 of said Code, the Medical Board of California is considering changes to Division 13 of Title 16 of the California Code of Regulations as follows:

#### INFORMATIVE DIGEST

##### A. Informative Digest

A proposal to amend California Code of Regulations sections 1364.10, 1364.12, 1364.13, and 1364.14 was heard on July 25, 2014, at the Board's quarterly meeting held in Sacramento, CA. The Board granted the proposal to amend sections 1364.10, 1364.12, 1364.13, and 1364.14 and to hold a hearing as soon as possible after the 45-day comment period.

On July 1, 2014, pursuant to Senate Bill 304 (Lieu, Chapter 515, Statutes of 2013), the Medical Board of California's (Board) sworn staff and their support staff were transferred to the Department of Consumer Affairs (DCA). Among the positions included in the transfer were the Chief of Enforcement, the Deputy Chief of Enforcement, and the Supervising Investigator IIs.

The Board's regulations pertaining to the issuance of citations authorizes a "board official" to issue a citation, a fine, and an order of abatement. The regulations also require the board official *who issued the citation* to perform certain functions, including holding the informal conference, authorizing an extension, etc. The regulations define "board official" as the Chief, Deputy Chief or Supervising Investigator II of the enforcement program of the Board or the Chief of Licensing.

As of July 1, 2014, the only remaining staff person at the Board authorized to issue a citation is the Chief of Licensing. However, the regulations state that the Chief of Licensing can only issue citations to physicians who practiced on a delinquent, inactive or restricted license or to an individual who practices beyond the exemptions authorized in Sections 2065 and 2066 of the Business and Professions Code.

Therefore, based upon the transfer of staff to DCA, there is no staff person authorized to issue citations for minor violations of the Medical Practice Act. The regulations need to be amended to allow the Executive Director or his or her designee to issue citations and perform the functions once a citation is issued. Without this proposed change, the Board is unable to provide protection of public health and safety, and will no longer be receiving revenue due to fines associated with citations issued by the Board.

B. Policy Statement Overview/Anticipated Benefits of Proposal

This regulation will allow the Executive Director or his or her designee to issue citations and perform the functions once a citation is issued. Without this regulation, there is no one at the Board authorized to issue a citation, fine, or order of abatement, which protects the health and welfare of the public.

The specific benefits anticipated by the proposed amendment include nonmonetary benefits such as the protection of public health and safety, and the monetary benefit that will allow the Board to continue to be able to receive revenue for fines associated with the citations issued.

C. Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations, the Board conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with

businesses in other states.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations will not affect small businesses. The Board does not license businesses, the Board licenses individuals; therefore, there is no impact on small businesses or any business.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have a significant adverse economic impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The Board has determined that this proposed regulation will benefit California consumers by enhancing and strengthening the Board's ability to protect consumers by allowing the Executive Director or his or her designee to issue citations to physicians and perform the functions once a citation is issued.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative has been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

## TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in this Notice under Contact Person or by accessing the Board's website:  
[http://www.medbd.ca.gov/laws/regulations\\_proposed.html](http://www.medbd.ca.gov/laws/regulations_proposed.html).

## AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

## CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Christine Valine Medical Board of California
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The backup contact person is:

Name:	Cassandra Hockenson Medical Board of California
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Web site Access: Materials regarding this proposal can be found at  
[http://www.mbc.ca.gov/laws/regulations\\_proposed.html](http://www.mbc.ca.gov/laws/regulations_proposed.html).